

REMARKS

Entry of the above amendments is respectfully requested. Claims 1-14 were previously cancelled. Claim 15 is hereby amended, and claims 15-20 as now amended are pending. Favorable reconsideration and allowance of this application is respectfully requested in light of the foregoing amendments and the remarks which follow.

1. Information Disclosure Statement

Paragraph 1 of the above referenced Office action indicates that the only references of record considered by the Patent Office are those stated on the form PTO-892 accompanying the action. However, the applicants have identified the present application as a divisional application of application Ser. No. 10/286,176. Under M.P.E.P. §2001.06(b), when an application is so identified, "the examiner will consider the prior art cited in the earlier application" (see also M.P.E.P. § 609.02(2)). Thus, applicants believe all of the references of the parent case, now U.S. Patent No. 6,881,506, are of record in the present application and should have been considered by the Patent Office in addition to the references cited by the Patent Office in the present application, which are stated on the form accompanying the aforesaid Office action.

All of the references cited in the background section of the present application, with the exception of U.S. Pat. No. 4,465,757, were cited in the parent case and thus are believed to have been properly, and timely, put before the Patent Office for consideration during the examination of the present application. With regard to the '757 patent, the patent number appears to have been incorrectly stated in the specification, and thus the reference to this patent has been deleted.

Applicants are submitting herewith a form PTO-1449 listing all of the references cited in the parent case that were not also cited on the form PTO-892 in the present application. Applicants thus ask that a copy of the form PTO-1449 be returned with an indication that each of the cited references have been considered by the Office.

2. Drawings and Specification

The drawings were objected to for failing to comply with 37 C.F.R. § 1.84(p)(5) because reference number "12" stated in the specification at paragraph 41 was not included

in the drawings. Paragraph 41 has been amended herein, as stated above, to delete reference number 12.

The drawings were also objected to because reference number "121" in Figure 2 was not referenced in the description. The reference number has been deleted from Figure 2 as indicated in the Annotated Marked Up Drawing sheet enclosed herewith. A set of formal drawings with the noted change to Figure 2 is also being submitted herewith with the sheet containing amended Figure 2 labeled "Replacement Sheet".

Thus, the drawing objections noted in paragraph 2 of the aforesaid Office action are believed to be avoided.

3. Claims

A. Rejections and Claim Amendments

Claims 15-20 were rejected under 35 U.S.C. § 103(a) for being obvious in view of the combination of Petrilli, *et al.* (U.S. Pat. No. 5,921,388) and Gupta, *et al.* (U.S. Pat. No. 6,672,323).

Claim 15 (and thereby claims 16-20) are hereby amended as stated above to recite that the emergency fire shelter has an oval floor with an opening therein for a person to gain access to the fire shelter, and a semi-capsular canopy having a main body shaped like a half cylinder and two ends shaped like 1/4 spheres.

B. Rebuttal of Prior Art Rejections

The claims 15-20, as previously stated, were rejected over the combination of Petrilli, *et al.* and Gupta, *et al.* The claims now include an emergency fire shelter of a construction recited in the parent case, priority application Ser. No 10/286,176, which issued as U.S. Pat. No. 6,881,506. In light of the acknowledged inventive nature of the emergency fire shelter now incorporated into the pending claims, and the fact that the cited prior art combination was of record in the issued priority case, amended claim 15 is now believed to be allowable. Further, the patentability of amended independent claim 1 provides sufficient basis for the allowance of dependent claims 16-20.

Accordingly, withdrawal of all claim rejections is respectfully requested.

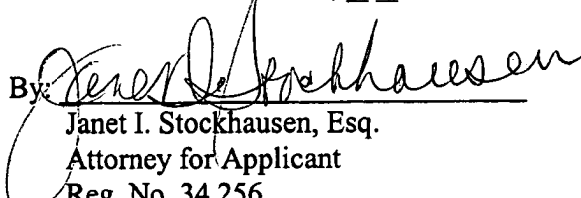
4. Conclusion

Applicants respectfully assert that all cited rejections have been overcome by the amendments and remarks herein. The application is now believed to be in condition for allowance, and a Notice of Allowance is requested.

No fee is believed to be due for the filing of this communication. If any fee is deemed necessary for the filing of this or any other communication, the Commissioner is hereby authorized to deduct such fees, along with any additional fees arising as a result of this Amendment or any other communication, from Deposit Account No. 06-1555.

Respectfully submitted,

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DRAWING AMENDMENTS:

The reference number "121" is being deleted from Figure 2 as indicated in the Annotated Marked Up Drawing sheet enclosed herewith. A set of formal drawings with the noted change to Figure 2 is also being submitted herewith with that sheet being labeled "Replacement Sheet".



ANNOTATED MARKED-UP DRAWING

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